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Of Attorneys for Defendant Glenda J. Baxter

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ALICE A. WHEELER, FIDUCIARY SUPPORT  
SERVICES, INC., PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
HOLLY JEAN CASEY,

Plaintiff,

v.

MULTNOMAH COUNTY, MAXIM  
HEALTHCARE SERVICES, INC., MAXIM  
HEALTH SYSTEMS, LLC, GLENDA J.  
BAXTER, MARK TESTORI, REBECCA  
WATTS JACOBS, CHRISTINE OLSON,  
SUSAN MILHOLLAND, JEFFREY CHUN,  
JACK DIAMOND, JOSHUA POMEROY,  
WENDY MUTH, TIMOTHY STROHMEYER  
and JOHN AND JANE DOES 1-14,

Defendants.

Case No. CV-3:09-CV-1518-AC

**ANSWER OF DEFENDANT  
GLENDA J. BAXTER TO  
FIRST AMENDED COMPLAINT**

**JURY TRIAL DEMANDED**

In answer to plaintiff's First Amended Complaint, defendant Glenda J. Baxter admits,  
denies and alleges as follows:

1. Defendant admits that jurisdiction and venue are proper.
2. Defendant further admits that this court has pendent jurisdiction over plaintiff's  
state law claims.

3. Defendant further admits that at all material times herein, defendant was a registered nurse licensed in the state of Oregon, employed by Multnomah County and acting within the course and scope of her employment with Multnomah County.

4. Except as specifically admitted herein, defendant denies each and every remaining allegation of plaintiff's First Amended Complaint and the whole thereof.

First Defense

(Failure to State a Claim)

5. Plaintiff's complaint fails to allege facts which would constitute a claim against defendant Baxter.

Second Defense

(Qualified Immunity)

6. To the extent that plaintiff states a claim against defendant Baxter, Baxter is entitled to qualified immunity.

Third Defense

(Oregon Tort Claims Act)

7. Defendant is entitled to the defenses, immunities and limitations set forth in the Oregon Tort Claims Act against plaintiff's state law claims. Any claim for damages by plaintiff is limited by the cap on damages set forth in the Oregon Tort Claims Act as to plaintiff's state law claims.

Fourth Defense

(Wrongful Death Damages Cap)

8. Plaintiff's state law claims for wrongful death are subject to the damages limitations set forth in ORS 31.710.

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Fifth Defense

(Proper Party)

9. Defendant is not a proper party for purposes of plaintiff's state law claims.

Sixth Defense

(Additional Defenses)

10. Defendant reserves the right to amend her answer to raise additional defenses that may become apparent during the course of discovery.

WHEREFORE, having fully answered plaintiff's First Amended Complaint, defendant prays for judgment in her favor, and for her costs and disbursements incurred herein, and for any and other such relief as the court may deem just and proper.

DATED this 27<sup>th</sup> day of January, 2010.

HOFFMAN HART & WAGNER, LLP

By: /s/ Karen O'Kasey

Karen O'Kasey, OSB No. 870696  
Of Attorneys for Defendant Baxter

Defendant herein requests trial by jury on those issues properly submitted to a jury.

By: /s/ Karen O'Kasey

Karen O'Kasey, OSB No. 870696  
Of Attorneys for Defendant Baxter

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of January, 2010, I served the foregoing **ANSWER OF DEFENDANT GLENDA J. BAXTER TO FIRST AMENDED COMPLAINT** on the following parties at the following addresses:

Hala J. Gores  
Hala J. Gores, PC  
621 SW Morrison St., #1218  
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Of Attorneys for Plaintiff

Susan Dunaway  
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Richard J. (Dick) Whittemore  
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Portland, OR 97204  
Of Attorneys for Maxim Healthcare Services, Inc., and  
Maxim Health Systems, LLC

by electronic means through the Court's Case Management/Electronic Case File system.

/s/ Karen O'Kasey  
Karen O'Kasey